



# STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	<b>04/23/08</b>	Bill No:	<a href="#"><u>AB 2728</u></a>
Tax:	<b>Sales and Use</b>	Author:	<b>Karnette, et al.</b>
Related Bills:	<b>AB 1365 (Karnette)</b>		

## BILL SUMMARY

This bill would, operative as specified, require 20% of the state's General Fund sales and use tax revenues, less refunds at the 4.75% rate derived from taxpayers engaged in certain lines of business, to be transferred to the State Treasury for allocation to the California Arts Council, as specified.

### Summary of Amendments

The amendments to this bill since the previous specify that the transfers required by the bill would commence on and after July 1 of each fiscal year following the achievement of the ongoing structural balance, as described.

## ANALYSIS

### CURRENT LAW

Existing law imposes a sales or use tax on the sale or purchase of tangible personal property in this state, unless specifically exempted.

The statewide sales and use tax rate (7.25%) imposed on taxable sales and purchases of tangible personal property is made up of the following components, and the funds are allocated in the specific funds identified (additional district taxes are levied among various local jurisdictions and are not reflected in this chart):

Rate	Jurisdiction	R & T Code
5.0%	State (General Fund)	6051, 6201, 6051.3, 6201.3
0.25%	State (Fiscal Recovery Fund)	6051.5, 6201.5
0.50%	Local Revenue Fund	6051.2, 6201.2
0.50%	Local Public Safety Fund	§35 Art XIII St. Constitution
1.00%	Local (0.25% County transportation funds 0.75% City and county operations)	7203.1

### PROPOSED LAW

This bill would add Section 7101.2 to the Revenue and Taxation Code to require 20% of all revenues, less refunds, derived from the taxes imposed pursuant to Sections 6051 and 6201 and remitted to the Board by taxpayers identified in the Board's records as engaged in those lines of business described in Codes 11 and 15 of the Board's business classification coding system, or Codes 45110, 453920, and 453998 of the North American Industry Classification System (NAICS), provided that the Board has fully implemented use of that system, to be deposited in the State Treasury to be allocated to the California Arts Council for use as specified.

The bill would become operative as specified, and only if the General Fund has achieved ongoing structural balance on or before July 1, 2015, as described.

### COMMENTS

1. **Sponsor and Purpose.** The author is the sponsor of this measure. Its purpose is to provide additional funding for the duties and responsibilities imposed on the California Arts Council pursuant to the Government Code, under which the Council was created.
2. **The April 23, 2008 amendments** address an issue brought up in the Board's previous analysis related to the date in which the transfers required by the bill would commence. Specifically, the amendments state that the transfers would commence on and after July 1 of each fiscal year following the achievement of the ongoing structural balance.
3. **Only the state's General Fund sales and use tax revenues at the 4.75% rate would be transferred under the provisions of this bill.** Although an additional component of the state's General Fund sales and use tax rate of 0.25% applies to taxable sales, this bill would only transfer the state sales and use tax revenues derived from the specified establishments at the 4.75% rate. If the author intends to additionally include the 0.25% rate, Sections 6051.3 and 6201.3 would be the appropriate statutes to reference in the bill (in addition to Sections 6051 and 6201 currently referenced).
4. **What are these classification systems referenced in the bill?** The NAICS is the industry classification system of the United States, developed by the Economic Classification Policy Committee on behalf of the Office of Management and Budget. It is currently used by the United States, Canada and Mexico's federal governments, state agencies and private industries to identify a business' principal activity within the retail, wholesale and service categories.

The Board has recently implemented the use of the NAICS code in registering new sales and use tax accounts. This system, which has more than 1,000 codes used by the Board, will eventually replace the Board's current business classification coding system. The Board's system uses broad based business codes to categorize and identify a taxpayer's primary business activity. These codes range from 01 to 99 (but not all numbers are used) and are grouped in number ranges that denote whether the primary business activity was retail, service, or wholesale. Before implementing the NAICS, the business code was assigned at the time of registration, and currently is still used for audit selection, return processing edits, and statistical processes, as well as identification of types of businesses for special informational mailings.

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The Board's business codes referenced in the bill include the following establishments:

Business Code 11	Business Code 15
Art goods and gift stores	Music stores
Bric-a-brac stores	Musical instrument stores
Ceramic stores	Piano stores
Imported gift merchandise	Phonographic record stores
Novelties and souvenir stores	Retail sheet music stores

The NAICS code 45110 referenced in the bill appears to be in error, as no such code exists under that system. The other two codes referenced, however, would include the following establishments:

453920 – Art dealers

453998 – All other miscellaneous store retailers (except tobacco stores), including art supply stores, candle shops, flower shops, and a variety of other specialized retail stores.

5. **The bill would not be problematic to administer.** The bill would not cause administrative concerns as currently written. However, it should be noted that the first transfer of funds would occur on or around the end of September of the first fiscal year in which the provisions of the bill become operative. This is so, because the due date of the first quarterly returns and payments to which this bill would apply is July 31. Then, once the returns are filed and payments are made, the average processing time necessary to review the return, input the data into our computer system, and identify the funds by specific business codes is around 60 days. Thereafter, transfers would occur quarterly.
6. **Previous legislation.** Last year, AB 1365 (Karnette), as amended April 30, 2007, contained provisions similar to this measure, except for the delayed operative date. AB 1365 was held in the Assembly Appropriations Committee.

## **COST ESTIMATE**

Some minor costs would be incurred in accounting for the revenues to be transferred. These costs are expected to be absorbable.

## **REVENUE ESTIMATE**

The current annual sales and use tax revenues associated with the specific industries identified in the bill amount to between \$30 to \$35 million that would be transferred from the State's General Fund to the California Arts Council. These figures could change, however, at the time the transfers actually become operative.

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